

May 15, 2012

**VIA ELECTRONIC FILING**

Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> St. SW  
Washington, D.C. 20554

Re: *Notice of Ex Parte Communication, 2010 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996; Promoting Diversification of Ownership in the Broadcasting Services, MB Dockets No. 09-182 and 07-294*

Dear Ms. Dortch:

On May 11, 2012, the undersigned, representing Bonneville International Corporation and The Scranton Times, L.P. (“Bonneville/Scranton”), had a brief telephone conversation with Erin McGrath, a legal advisor to Commissioner Robert McDowell, concerning the above-referenced proceeding (“2010 Quadrennial Review”). The purpose of the presentation was to review how the Commission’s precedent, its current rulemaking record, and pursuit of its articulated policy goals support elimination of the FCC’s newspaper/radio cross-ownership rule.

Specifically, I discussed the consistency of the Commission’s pronouncements over 42 years concerning the limited role that radio plays in original newsgathering and dissemination, particularly with respect to local news. *See* Comments of Bonneville/Scranton, MB Docket No. 09-182, at 5-10 (March 5, 2012) (“Bonneville/Scranton Comments”). I pointed out that a number of commenters in addition to Bonneville/Scranton also submitted serious, analytical arguments for lifting the newspaper/radio rule, while those who apparently oppose any changes to the regulation have provided no specific discussion concerning newspaper/radio combinations. *See* Ex Parte Presentation of Bonneville/Scranton, MB Docket No. 09-182, at 2 (May 14, 2012) (“Bonneville/Scranton Ex Parte”). In addition, I noted that the record is devoid of empirical data that might buttress retention of the newspaper/radio rule. *Id.* I also explained that the rule serves none of the long-standing policy goals that purportedly have served to justify the FCC’s broadcast ownership restrictions – competition, localism, and diversity. Bonneville Scranton Comments at 14-20. As a result, the Commission has been presented with no factual foundation, or even serious legal argument, for keeping the restriction.

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I also noted that the Diversity and Competition Supporters (“DCS”), a coalition of 50 prominent associations and organizations that collectively represent a wide range of minorities’ and women’s interests, now supports relaxation of the entire newspaper/broadcast cross-ownership ban because of the “current climate facing the newspaper industry,” so long as the rule change does not discourage minority ownership. See DCS Comments, MB Docket No. 09-182, at 40, 42-43 (March 5, 2012). DCS goes on to state that “in practice, ... cross-ownership appears to have little impact on minority ownership” but that it can “help underwrite original journalism.” *Id.* at 41.

Finally, I indicated that, based on the current record before the agency, a decision to keep a newspaper/radio rule in any form would violate Section 202(h) of the Telecommunications Act of 1996, run counter to the Administrative Procedure Act’s prohibition against arbitrary and capricious agency action, and suffer from serious constitutional infirmities. See Bonneville/Scranton Comments at 9 n.19; *id.* at 18 n.55.

In accordance with the Commission’s *ex parte* rules, 47 C.F.R. § 1.1206, this notice is being filed in the above-referenced dockets. If you have any questions about this submission, please do not hesitate to contact me.

Respectfully submitted,

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cc: Erin McGrath